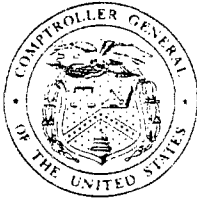


PLM-II

DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548

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FILE: B-191674

DATE: March 29, 1979

MATTER OF: *Denial of* Frank D. Milazzo } Tour Renewal  
Agreement Travel }

DIGEST: A member of the Air Force nearing <sup>the</sup> end of his enlistment applied for a position as air traffic controller specialist at the Alaskan Regional Office of the Civil Service Commission. He was subsequently appointed to that position from the local register as a local hire, and was advised that he was ineligible for tour renewal agreement travel. Since section 1.12c(3) OMB Circular A-56 (now para. 2.1-5h(3)(b)) Federal Travel Regulations) permits agencies to deny such travel to locally hired employees who are otherwise eligible, and since the claimant was fully advised when he was appointed that he would not be entitled to such travel, the claim is denied.

By a letter dated January 30, 1978, Mr. Frank D. Milazzo through his agent appealed Certificate of Settlement No. Z-2619489, issued December 16, 1977, which denied his claim for tour renewal agreement travel expenses for travel from Anchorage, Alaska, to Victorville, California, in the amount of \$1,974.30.

Mr. Milazzo was appointed as an air traffic control specialist by the Alaskan Region, Federal Aviation Administration (FAA) on June 30, 1972. The Standard Form 50 making the appointment states that Mr. Milazzo was a local hire and that he was not eligible for an employment agreement.

On March 9, 1975, Mr. Milazzo formally requested travel orders for tour renewal agreement travel. His request was denied on the grounds that FAA records at the time of his appointment indicated his residence as Alaska. This residence determination was based on the fact that Mr. Milazzo was hired from a Civil Service Commission certificate listing only "in state" or local applicants.

While a member of the Air Force Mr. Milazzo was stationed in Alaska from 1967 to 1970 at Elmendorf Air Force Base. Shortly after being transferred to Vance Air

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Force Base, Oklahoma, he submitted an application for the position of air traffic controller specialist, GS-9, to the Alaskan Regional Office of the United States Civil Service Commission. He received a GS-9 rating in a notice dated December 31, 1970.

In July 1971 Mr. Milazzo was transferred to George Air Force Base, California. On August 27, 1971, he submitted an SF-172 to the Alaskan Regional Office, CSC, to update his records and used an Alaskan address. On November 18, 1971, he received a letter from the Anchorage Regional Office stating he had been certified for a career-conditional appointment as an air traffic controller specialist. On January 25, 1972, he received a letter from the Alaskan Region of the Federal Aviation Administration stating he had been selected as an air traffic controller specialist. He was formally appointed on June 28, 1972. As stated earlier, the SF-50 making the appointment stated he was a local hire.

Under applicable regulations in effect at the time of Mr. Milazzo's appointment, specifically section 1.12c(3) of OMB Circular A-56, (now para. 2.1-5h(3)(b)(iii) Federal Travel Regulations) the FAA had the administrative discretion to deny tour renewal agreement travel to local hires. Mr. Milazzo contends that the FAA erred in determining that his address was Alaska and in denying tour renewal travel benefits to him. He points out that he was living in California at the time he was selected for the position and that his Air Force discharge record shows his permanent address as Ohio.

The applicable regulatory provision is:

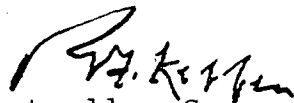
"(iii) Denial of allowance to eligible to local hires. Under regulations prescribed by the head of the agency concerned, the agency may in its discretion refuse eligibility for allowances under this part to an employee who was hired locally and who did not sign a written agreement as provided under 2-1.5a(1)(b), provided that the agency notifies the employee of its intention before the employee has completed a period of service equal to the period generally applicable to the employees of the agency and serving at the post of duty concerned or in the same geographic area."

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Under that provision an individual hired locally for duty outside the conterminous United States may be denied tour renewal agreement travel without regard to a determination of his or her actual residence at the time of employment.

Mr. Milazzo was fully advised that he was considered a local hire and, thus, ineligible for tour renewal agreement travel at the time of his appointment. It is recognized that after making inquiries about a position of this type to which he was later appointed, he was transferred as a member of the United States Air Force to locations in the conterminous United States. However, upon retirement from the Air Force he returned to Alaska at Government expense incident to that separation and prior to his appointment to the FAA position. In the circumstances it was not unreasonable for the agency to conclude that he was a local hire and to advise him that tour renewal agreement travel would not be authorized under the authority of the regulation quoted above. Therefore, Mr. Milazzo was not improperly deprived of a right given by statute and he is not entitled to tour renewal agreement travel.

Accordingly, the decision of our Claims Division denying Mr. Milazzo's claim for a tour renewal travel allowance is sustained.

  
Deputy Comptroller General  
of the United States